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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/384.326	08/26/99	YOSHIOKA	S 35.C5745-CIP

005514 MMC1/0609  
FITZPATRICK CELLA HARPER & SCINTO  
30 ROCKEFELLER PLAZA  
NEW YORK NY 10112

EXAMINER

DAY.M

ART UNIT

PAPER NUMBER

2879

DATE MAILED:

06/09/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

09/384,326

Applicant(s)

S. Yoshioka, et al.

Examiner

M. Day

Group Art Unit

2879



☐ Responsive to communication(s) filed on \_\_\_\_\_.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-64 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☒ Claim(s) 1-42 is/are allowed.

☒ Claim(s) 43-64 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☒ received in Application No. (Series Code/Serial Number) 07/218,203.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 5

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Specification*

1. A substitute specification including claims is required pursuant to 37 CFR 1.125(a) because the specification fails to comply with 37 CFR 1.52(b). Specifically, the instant specification does not include a top margin of at least 2.0 cm. A proper margin is required to avoid holes being punched in portions of the specification when the specification is affixed to the file folder.

A substitute specification filed under 37 CFR 1.125(a) must only contain subject matter from the original specification and any previously entered amendment under 37 CFR 1.121. If the substitute specification contains additional subject matter not of record, the substitute specification must be filed under 37 CFR 1.125(b) and must be accompanied by: 1) a statement that the substitute specification contains no new matter; and 2) a marked-up copy showing the amendments to be made via the substitute specification relative to the specification at the time the substitute specification is filed.

### *Claim Objections*

2. Claims 51, 53, and 56 are objected to because of the following informalities: There is no such word as "wirings." Here it is assumed that the applicant is referring to "wires." Appropriate correction is required.

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***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 51-64 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Referring to claim 51, the double inclusion of the same element is generally not permitted. Referring to lines 22-26, a scan signal to the row wires is implemented by applying a low voltage across the first and second electrodes. See FIG. 39A, and col. 21, line 41+.

Claims 53, and 56 are rejected for the same reason as claim 51.

Referring to 53, there is insufficient structure for application of a voltage across the a surface of the electron-emission layer.

Claims 52, 54, <sup>55</sup>57-64 are rejected or depending from a rejected claim.

***Double Patenting***

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper extension of the exclusionary right granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686

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F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claims 43-50 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, and 4 of U.S. Patent No. 5,066,883 by Yoshioska et al. in view of U.S. Patent No. 5,066,883 by Klopfer, et al. Referring to claim 43, Yoshioska et al. ('883) recites in claim 1 an electron-emitting device substantially as presently recited. The principle difference is that the instant claim is directed to a display device including the electron source. It is well known to include an electron source in a display device, as evidenced by Klopfer, et al. Klopfer et al. disclose a display device substantially as claimed (see FIG. 7, 8) including an electron source (see FIG. 5), a fluorescent plate having a substrate 34, a fluorescent layer 33, an accelerating electrode 32, and a vacuum housing (see col. 4, lines 2-10). It would have been obvious to include the electron source, as disclosed by Yoshioska et al., instead of the electron source, as disclosed by Klopfer, et al. because the two sources are art recognized equivalents for producing electrons.

Claim 44 is rejected over claim 3 of U.S. Patent No. 5,066,883.

Claim 45 is rejected over claim 4 of U.S. Patent No. 5,066,883.

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Claim 47, 49, and 50 are rejected for substantially the same reasons and claims 43-45, and claim 48 is rejected for the same reason as claim 47.

7. Claims 51-64 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, and 4 of U.S. Patent No. 5,066,883 by Yoshioska et al. in view of U.S. Patent No. 5,066,883 by Klopfer, et al., further in view of U.S. Patent No. 4,575,765 by Hirt. Referring to claims 51, and 52, Yoshioska et al. ('883) recites in claim 1 an electron-emitting device substantially as presently recited. A principle difference is that the instant claim is directed to a display device including the electron source. It is well known to include an electron source in a display device, as evidenced by Klopfer, et al. Klopfer et al. disclose a display device substantially as claimed (see FIG. 7, 8) including an electron source (see FIG. 5), a fluorescent plate having a substrate 34, a fluorescent layer 33, an accelerating electrode 32, and a vacuum housing (see col. 4, lines 2-10). It would have been obvious to include the electron source, as disclosed by Yoshioska et al., instead of the electron source, as disclosed by Klopfer, et al. because the two sources are art recognized equivalents for producing electrons.

Still referring to claims 51, and 52, Yoshioska et al. recite in claim 1 a voltage (scan signal) applied to opposing electrodes. Yoshioka et al. do not claim a means for applying the scan signal and a modulating signal to the column wires corresponding to the scanned electron emission elements. It is the position of the examiner, however, that matrix addressing of electron emitters is well known and conventional in the art, as evidenced by Hirt. See col. 3, lines 46-52.

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It would have been obvious to matrix address, as disclosed by Hirt, the emitters, as disclosed by Yoshioka et al. because such an addressing scheme is conventional.

Claims 53, and 54, and rejected for the same reasons as claims 51, and 53.

Claim 55 is rejected for the same reason as claim 53.

Claims 56, and 57 are rejected for the same reasons as claim 53.

Claim 58 is rejected over claim 3 of U.S. Patent No. 5,066,883.

Claim 59 is rejected over claim 4 of U.S. Patent No. 5,066,883.

Referring to claim 60, the specification of an accelerating voltage is within the skill of the art.

Claim 61 is rejected for the same reason as claim 53.

Referring to claim 62, it is noted that claim 1 of U.S. Patent No. 5,066,883 is directed to an electron emitting device comprising a laminate. It is the position of the examiner that a laminate would intrinsically have "roughly parallel" first and second electrodes.

Referring to claims 63, Yoshioska et al. recite in claim 1 a voltage (scan signal) applied to opposing electrodes.

Referring to claim 64, the specification of an optimum voltage is within the skill of the art.

*Allowable Subject Matter*

8. Claims 1-42 are allowed over the prior art of record.

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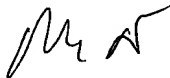
***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Day whose telephone number is 703/305-4941. The examiner can normally be reached on Monday-Friday, from 8:00 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimeshkumar Patel, can be reached by phoning 703/305-4794. The Fax phone number is 703/308-7382.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is 703/308-0956.

June 6, 2000



**MICHAEL DAY  
PRIMARY EXAMINER  
GROUP 2800**